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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,587	03/20/2001	Massimo Aleardi	713-426	1610

7590 09/23/2003
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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,587

Applicant(s)

ALEARDI ET AL.

Examiner

Josiah C. Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 6/30/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed 6/30/03 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11, 12, 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation of a tongue structure that appears "on the same side of the teeth" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Applicant has not restricted the location of the teeth in the claims to be only on one side of the device. Further, while the embodiment of applicant's invention shown in Figs. 1 and 2 illustrates the teeth as appearing on one side of device, the specification does not restrict the location to only one side. Therefore, the limitation that the tongue appears "on the same side of the teeth" cannot have proper antecedent basis unless the claims are amended to limit the teeth to appearing on one side of the device. For the purpose of an examination on the merits the teeth have not been regarded as being required to appear on only one side.

Claim 17 recites the limitation "the teeth" in line 3 and "said teeth" in line 4. There is insufficient antecedent basis for this limitation in the claim. Applicant has not identified any

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teeth structure in the claims nor the location of the teeth structure with respect to the second compartment. Review of the specification does not provide a sufficient basis to ascertain the scope of these claims without reciting the structure and location of the teeth. For the purpose of performing an examination on the merits, claim 17 has been regarded as including the limitations of claim 6 that relate to the structure and location of the "teeth." These limitations appear in the last three lines of claim 6, beginning "wherein said attaching elements comprise two teeth..." Claim 17 is also rejected for the limitation of the tongue location being "on the same side of the teeth" as applied to claim 11 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-97508 (hereinafter "the '058 Patent").

The '058 Patent discloses in Figures 1-6 an electronic gas lighting device substantially as described in applicant's claims 15 and 16 including a casing (10) made of an insulating molded plastic material (see paragraph 0018 of the computer translation supplied by applicant in response filed 6/30/03, hereinafter "the translation"), an electronic high-voltage-pulse generating circuit (24) comprising a transformer (T) and multiple windings (see Fig. 1), power supply blade contacts (Pa), attaching elements (15 and 16) that project from an outer surface for removably attaching to a support surface (see paragraph 0019 of the translation), and the casing comprises first and second compartments (10 and 20) and is a box/like cup like structure (see Fig. 1).

In regard to the limitation of claim 15 that the first and second compartments are integrally made of the insulating material, the '058 patent shows a two-piece casing that is connected together (see Fig. 1). It has been held that forming a one-piece construction of a prior art multiple piece structure is merely a matter of obvious engineering choice. (See MPEP § 2144.04(V)(B)).

7. Claims 6-8, 10, 11, 13, 14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-97508 (hereinafter "the '058 Patent") in view of *Le Monnier De Gouville* (hereinafter "*Gouville*") (previously cited in PTO-892 form of Office Action mailed 3/28/03).

The '058 Patent discloses in Figures 1-6 an electronic gas lighting device substantially as described in applicant's claims 15 and 16 including a casing (10) made of an insulating molded plastic material (see paragraph 0018 of the computer translation supplied by applicant in

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response filed 6/30/03, hereinafter “the translation”), an electronic high-voltage-pulse generating circuit (24) comprising a transformer (T) and multiple windings (see Fig. 1), power supply blade contacts (Pa), attaching elements (15 and 16) that project from an outer surface for removably attaching to a support surface (see paragraph 0019 of the translation) and are integrally formed with casing (10) (see Fig. 1), and the casing comprises first and second compartments (10 and 20) and is a box/like cup like structure (see Fig. 1). The examiner considers the attachment elements (15 and 16) to constitute the teeth recited by applicant. The ‘058 Patent further discloses the presence of a grounding tongue (17) with mounting hole (17a) (see paragraph 0019 of the translation) that enables attachment to a burner body (see paragraphs 0027-0029 of the translation) and is located on the same side as one of the teeth (15) and in a different direction than the high voltage terminal (see Fig. 1).

In regard to the limitation of claim 8 that the first and second compartments are integrally made of the insulating material, the ‘058 patent shows a two-piece casing that is connected together (see Fig. 1). It has been held that forming a one-piece construction of a prior art multiple piece structure is merely a matter of obvious engineering choice. (See MPEP § 2144.04(V)(B)).

The ‘058 Patent possibly does not disclose that at least one of the teeth is elastically deformable.

Gouville teaches an electronic gas lighting device in the same field of endeavor as the ‘058 Patent wherein the device of *Gouville* includes attachment means (5) that engage by snap action (see col. 3, lines 12). The examiner considers that a person of ordinary skill in the art

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would reasonably regard snap action connection as including plastic pieces that are deformable to enable the snapping or locking action.

Therefore, in regard to claims 6-8, 10, 11, 13, 14, 17, and 18, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the attachment teeth of the '058 to include the elastically deformable connection means of *Gouville* to enable snap action connection which is desirable for providing a quick connection (see *Gouville*, col. 3, lines 9-11).

8. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '058 Patent in view of *Gouville* as applied to claim 8 above, and further in view of *Bears et al.* (US # 4,392,810).

The '058 Patent in view of *Gouville* teach all the limitations of claims 9 and 12 except possibly for screw terminals for the blade contacts.

Bears et al. teaches an electronic ignition device in the same field of endeavor as the '058 Patent wherein the device of *Bears et al.* includes screw terminals (70) for blade contacts.

Therefore, in regard to claims 9 and 12, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of *Gouville* to include screw terminals as taught by *Bears et al.* for the desirable purpose of connecting a power supply to a the supply contacts to enable electrical communication (see *Bears et al.*, col. 3, line 66 through col. 4, line 2).

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Response to Arguments

9. Applicant's arguments with respect to claims 6-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *MacAskill et al.*, *Berlik et al.*, *Gwozdz*, and *Lund* are included to further show the state of the art concerning electrical lighter structure.


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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
September 17, 2003


JOSIAH COCKS
PATENT EXAMINER
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